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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130408348-3835-02]

RIN 0648-XC906

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Sub-Annual Catch Limit (ACL) Harvested for Management Area 3

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: Effective 1200 hr, October 24, 2013, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring (herring) per trip or calendar day in or from Management Area 3 until January 1, 2014, when the 2014 allocation for Area 3 becomes available. This action is required because NMFS projects that 92 percent of the catch limit for that area was caught as of October 18, 2013. Vessels that have entered port before 1200 hr, October 24, 2013, may possess, offload, and sell more than 2,000 lb of herring from Area 3, from that trip. Also effective 1200 hr, October 24, 2013, federally permitted dealers may not receive more than 2,000 lb (907.2 kg) of herring caught within Management Area 3 per trip or calendar day, unless it is from a trip landed by a vessel that entered port before 1200 hr, October 24, 2013.

DATES: Effective 1200 hr local time, October 24, 2013, through December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Christopher Biegel, Fishery Management Specialist, (978) 281-9112.

SUPPLEMENTARY INFORMATION: The reader can find regulations governing the herring fishery at 50 CFR part 648. The regulations require annual specification of the overfishing limit, acceptable biological catch, annual catch limit (ACL), optimum yield, domestic harvest and processing, U.S. at-sea processing, border transfer, and sub-ACLs for each management area. The 2013 Domestic Annual Harvest is 107,800 metric tons (mt); the 2013 sub-ACL allocated to Area 3 is 42,000 mt, and 0 mt of the sub-ACL is set aside for research (October 4, 2013, 78 FR 61828).

The regulations at § 648.201 require that when the Administrator, Northeast Region, NMFS (Regional Administrator) projects herring catch will reach 92 percent of the sub-ACL allocated in any of the four management areas designated in the Atlantic Herring Fishery Management Plan (FMP), NMFS must prohibit herring vessel permit holders from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from the specified management area for the remainder of the fishing year. The Regional Administrator monitors the herring fishery catch in each of the management areas based upon dealer reports, state data, and other available information. NMFS must publish notification in the Federal Register of the date that the catch is projected to reach 92 percent of the management area sub-ACL and reduced trip limit period. Vessels that have entered port before the reduced trip limit period may offload and sell more than 2,000 lb (907.2 kg) of herring from Area 3, from that trip. During the reduced trip limit period, vessels may transit Area 3 with more than 2,000 lb (907.2 kg) of herring on board only under the conditions specified below.

The Regional Administrator has determined, based on dealer reports and other available information, that the herring fleet will have caught 92 percent of the total herring sub-ACL allocated to Area 3 by October 18, 2013. In order to give the herring fleet sufficient time to comply with this reduced trip limit, effective 1200 hr local time, October 24, 2013, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of herring per trip or calendar day, in or from Area 3 through December 31, 2013, except that vessels that have entered port before 1200 hr on October 24, 2013, may offload and sell more than 2,000 lb (907.2 kg) of herring from Area 3, from that trip after the closure. During the reduced trip limit period, a vessel may transit through Area 3 with more than 2,000 lb (907.2 kg) of herring on board, provided the vessel did not catch the herring in Area 3 and stows all fishing gear aboard, making it unavailable for immediate use as required by § 648.23(b). Effective 1200 hr on October 24, 2013, NMFS also advises federally permitted dealers that they may not receive herring from federally permitted herring vessels that harvest more than 2,000 lb (907.2 kg) of herring from Area 3 through 2400 hr local time, December 31, 2013, unless it is from a trip landed by a vessel that entered port before 1200 hr on October 24, 2013.

#### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest and impracticable. This action reduces the trip limit to 2,000 lb (907.2 kg) for Management Area 3 until January 1, 2014, under current regulations. The regulations at § 648.201(a) require such action to ensure that herring vessels do not exceed the 2013 sub-ACL allocated to Area 3. The

herring fishery opened for the 2013 fishing year on January 1, 2013. Data indicating the herring fleet will have landed at least 92 percent of the 2013 sub-ACL allocated to Area 3 have only recently become available. If implementation of this reduced trip limit period is delayed to solicit prior public comment, the sub-ACL for Area 3 for this fishing year may be exceeded, thereby undermining the conservation objectives of the FMP. If sub-ACLs are exceeded, the excess must also be deducted from a future sub-ACL and would reduce future fishing opportunities. NMFS further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

Authority: 16 U.S.C. 1801 et seq.

Dated: October 21, 2013

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Kelly Denit,

Acting Deputy Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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